

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

2006 SEP -8 P 4: 33

JAMAR JOHNSON, Ph.D.,)

Plaintiff,)

v.)

ERNEST HAIRSTON, et al.,)

Defendants.)

Civil Action No.: 3: 06 cv 812-WKW

NOTICE OF REMOVAL & SUBSTITUTION

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 2679 (d) (2) and 42 U.S.C. § 1442a, *Jamar Johnson, PhD v. Ernest Hairston, et al.*, Case No. DV-06-392 (District Court of Russell County, Alabama), is hereby removed to this Court, and the United States is substituted as party defendant for Ernest Hairston. In support of this notice, the United States, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, respectfully states that:

1. Ernest Hairston is a named defendant in *Jamar Johnson, PhD v. Ernest Hairston, et al.*, Case No. DV-06-392 (District Court of Russell County, Alabama). The one-line complaint alleges that defendant Hairston owes the plaintiff \$10,000 because of “no closed caption the TV & DVD.” Copies of all papers filed in the State Court are filed with this Notice as Exhibit 1.

2. Ernest Hairston is an Education Research Analyst with the U.S. Department of Education in Washington, D.C. He is the federal project officer for several Education Department grants and cooperative agreements including the Captioned Media Program under the National Association of the Deaf. His federal responsibilities include monitoring this program.

3. Pursuant to 28 U.S.C. § 2679 (d)(2), the United States Attorney for the Middle District of Alabama has certified that defendant Hairston was acting within the scope of his federal office or employment at the time of the incident out of which plaintiff's claims arise. *See* 28 C.F.R. § 15.3 (2003) (delegating the Attorney General's certification authority to the United States Attorneys). A copy of the Attorney General's scope-of-employment certification is filed with this Notice as Exhibit 2.

4. Removal to this Court has occurred by operation of law based upon the Attorney General's scope-of-employment certification. 28 U.S.C. § 2679(d)(2). The Attorney General's certification conclusively establishes removal jurisdiction in this Court. 28 U.S.C. § 2679(d)(2); *Gutierrez De Martinez v. Lamagno*, 515 U.S. 417, 431 (1995).

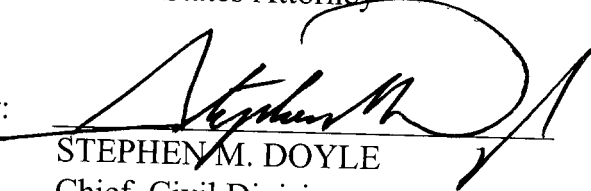
5. Substitution of the United States as party defendant for defendant Hairston has occurred by operation of law, and this action shall proceed as an action against the United States under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2671-2680. 28 U.S.C. § 2679 (d)(2).

WHEREFORE, pursuant to 28 U.S.C. § 2679 (d) (2), *Jamar Johnson, PhD v. Ernest Hairston, et al.*, Case No. DV-06-392 (District Court of Russell County, Alabama) has been removed to this Court, and the United States has been substituted as party defendant for Ernest Hairston.

Respectfully submitted this 8th day of September, 2006.

LEURA G. CANARY
United States Attorney

By:



STEPHEN M. DOYLE
Chief, Civil Division
Assistant United States Attorney
Attorney for Defendant
Post Office Box 197
Montgomery, AL 36101-0197
District of Columbia Bar No. 422474
Telephone No.: (334) 223-7280
Facsimile No.: (334) 223-7418
E-mail: stephen.doyle@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Notice of Filing Removal upon *pro se* plaintiff by mailing a copy of same, first class, postage prepaid, addressed as follows:

Jamar Johnson
9th Lane Street
Phenix City, AL 36869

Dated this 8th day of September, 2006.


Assistant United States Attorney

AVS0300

ALABAMA JUDICIAL DATA CENTER
RUSSELL COUNTY

SUMMONS

DV 2006 000392.00
MICHAEL J. BELLAMY

IN THE DISTRICT COURT OF RUSSELL COUNTY

JAMAR JOHNSON, P.H.D. VS ERNEST HAIRSTON & BILL STARK

SERVE ON: (D001)

PLAINTIFF'S ATTORNEY

HAIRSTON ERNEST PHD
NAT'L ASSOC OF THE DEAF
1447 E MAIN ST
SPARTANBURG, SC 29307-0000

TO THE ABOVE NAMED DEFENDANT:

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS, YOU OR YOUR ATTORNEY ARE REQUIRED TO MAIL OR HAND DELIVER A COPY OF A WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT TO THE PLAINTIFFS ATTORNEY(S) SHOWN ABOVE OR ATTACHED:

THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN 14 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGEMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. YOU MUST ALSO FILE THE ORIGINAL OF YOUR ANSWER WITH THE COURT BELOW.

() TO ANY SHERIFF OR ANY PERSON AUTHORIZED BY EITHER RULES 4.1(B)(2) OR 4.2(B)(2) OR 4.4(B)(2) OF THE ALABAMA RULES OF CIVIL PROCEDURE: YOU ARE HEREBY COMMANDED TO SERVE THIS SUMMONS AND A COPY OF THE COMPLAINT IN THIS ACTION UPON DEFENDANT:

(X) THIS SERVICE BY CERTIFIED MAIL OF THIS SUMMONS IS INITIATED UPON THE WRITTEN REQUEST OF Plaintiff PURSUANT TO RULE 4.1(C) OF THE ALABAMA RULES OF CIVIL PROCEDURE.

DATE: 08/22/2006

CLERK: KATHY COULTER

BY: *[Signature]*

PO BOX 518

PHENIX CITY AL 36868-0510

(334)298-0516

RETURN ON SERVICE:

() CERTIFIED MAIL RETURN RECEIPT IN THIS OFFICE ON (DATE) _____
(RETURN RECEIPT HERETO ATTACHED)

() I CERTIFY THAT I PERSONALLY DELIVERED A COPY OF THE SUMMONS AND COMPLAINT TO _____
IN _____ COUNTY, ALABAMA ON (DATE) _____

DATE

SERVER SIGNATURE

SERVER ADDRESS

TYPE OF PROCESS SERVER

OPERATOR: JBC
PREPARED: 08/22/2006

(Contents)

DEFENDANT'S
EXHIBITCASE
NO.EXHIBIT
NO. 1

AMENDED

State of Alabama
Unified Judicial System

Form C-48 (front) Rev. 6/96

STATEMENT OF CLAIM
(Complaint)

District Civil (Except Small Claims and Debt Collection Actions)

Case Number

DV-06-392

IN THE DISTRICT COURT OF

RUSSELL

(Name of County)

ALABAMA

Jammar Johnson P.H.D.
Plaintiff

v. Ernest Harrison, Bill Stark
Defendant

Home or Business Address:

Home or Business Address: 1447 East Main Street
South Carolina Spartanburg, S.C. 29309

Home or Business Telephone Number:

Home or Business Telephone Number:

Name of Attorney: Jammar Johnson

Additional Defendant: MR Stark Bill Stark

Business Telephone Number:

Caption media project Director

Date of
Filing

Caption Media Project
National Association of the Deaf

COMPLAINT

1. The plaintiff claims the defendant owes the plaintiff the sum of \$ 10,000 because: no
(make a short and plain statement of the claim showing that the plaintiff is entitled to relief.)

Caption the T.V & DVD

The plaintiff also claims from the defendant court costs in the sum of \$ 245.00 plus \$ 0.00 for attorney's fees.

Kathy Coulter
Clerk

Clerk's Address: KATHY COULTER
CLERK OF CIRCUIT CLERK
P O BOX 518
PHENIX CITY, AL 36868-0518

Telephone Number: 334-298-0516

Jammar Johnson P.H.D.
Plaintiff or Plaintiff's Attorney (signature)

Attorney Code: 5- U.S.C. 55A (Edu.S.A.)

(334) 448-1349

Plaintiff's or Plaintiff's Attorney's Phone Number

RAHWAN7002@yahoo.com
Plaintiff's or Plaintiff's Attorney's E-mail Address

SUMMONS

To any sheriff or any person authorized by either Rules 4.1(b)(2) of the Alabama Rules of Civil Procedure to perfect service:
You are hereby commanded to serve this summons and complaint upon the above-named defendant.

NOTICE TO DEFENDANT

THE COMPLAINT SET OUT ABOVE IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU ARE REQUIRED TO MAIL OR HAND DELIVER A COPY OF A WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT, TO THE PLAINTIFF (OR THE ATTORNEY FOR THE PLAINTIFF), AT THE ADDRESS NOTED ABOVE.

THIS ANSWER MUST BE MAILED OR HAND DELIVERED TO THE CLERK OF COURT AT THE ADDRESS BELOW WITHIN FOURTEEN (14) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT, (YOU MUST FILE THE ORIGINAL ANSWER WITH THE CLERK OF THIS COURT).

Dated _____

KATHY COULTER

Clerk of Court

P O BOX 518
PHENIX CITY, AL 36868-0518

Address of Clerk of Court

COURT RECORD (Original)

PLAINTIFF (COPY)

DEFENDANT (COPY)

State of Alabama
Unified Judicial System

Form C-88 Rev. 6/96

STATEMENT OF CLAIM

Complaint - District Civil

(Not to be used for Small Claims and Detinue Actions)

Case Number

57-DV-De - 392

IN THE DISTRICT COURT OF RUSSELL COUNTY, ALABAMA

JAMAR JOHNSON P.H.D vs. Ernest Harkston, P.H.D

Plaintiff

Defendant

Home or Business Address:

4th Lane StPhenix City AL 36869

Home or Business Address:

National Association of the Deaf 1447 East Main Street S.ESpartanburg, S.C 29307

Home or Business Telephone Number:

Home or Business Telephone Number:

Name of Attorney:

Jamar Johnson P.H.D

Additional Defendant:

Caption Media program

Business Telephone Number:

(334) 498-1349U.S Department of Education

COMPLAINT

1. The plaintiff claims the defendant owes the plaintiff the sum of \$ 10,000 ~~250 million~~ because: no closed caption the DVD.
(make a short and plain statement of the claim showing that the plaintiff is entitled to relief.)

2. The plaintiff also claims from the defendant court costs in the sum of \$ 235.00, plus \$ _____ for interest and \$ _____ for attorney's fees.

Plaintiff or Plaintiff's Attorney (signature)

Attorney Code:

S-U.S.C 552A (EOUSA)

Plaintiff's or Plaintiff's Attorney's Phone Number

(334) 448-1349

Plaintiff's or Plaintiff's Attorney's E-mail Address

RAHWAH2002@yahoo.com

Date:

8-8-06

Plaintiff's or Plaintiff's Attorney's Fax Number

SUMMONS

To any sheriff or any person authorized by either Rules 4.1(b)(2) of the Alabama Rules of Civil Procedure to perfect service:
You are hereby commanded to serve this summons and complaint upon the above-named defendant.

NOTICE TO DEFENDANT

THE COMPLAINT SET OUT ABOVE IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU ARE REQUIRED TO MAIL OR HAND DELIVER A COPY OF A WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT, TO THE PLAINTIFF (OR THE ATTORNEY FOR THE PLAINTIFF), AT THE ADDRESS NOTED ABOVE.

THIS ANSWER MUST BE MAILED OR HAND DELIVERED TO THE CLERK OF COURT AT THE ADDRESS BELOW WITHIN FOURTEEN (14) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

YOU MUST FILE THE ORIGINAL ANSWER WITH THE CLERK OF THIS COURT.

Kathy Coulter, Circuit Clerk
Post Office Box 518
Phenix City, Alabama 36868-0518
(334) 298-0516
kathy.coulter@alacourt.gov

Dear, State Judge,

My name is Jamar Johnson Ph.D. I am an individual with Deaf who used American Sign Language to communication. I live at 9 the lane Phoenix City, Alabama 36869. I would like to file a complaint with the way the National Captioning Institute, Inc (NCI) does not put DVD's Closed Captioning also this year the 25th anniversary of Closed Captioning on network television. First off London Royal National Institute for the Blind, United Kingdom. Where is called Deaf than Blind, I can read see to eyes Closed Caption on the Television and film, movies DVD's, etc... National control World. National Deaf Education. The Education of the Deaf in Act in 1986 preauthorized KDES and MSSD and established a National Commission to study the Education of Students who are Deaf. Federal Support for the National Technical. The Education of the Deaf Act and Department monitoring efforts... at Federally Assisted Schools (1986); and (3) Deaf Education: Improved Laws Relating to (Captioned Films for the Deaf Act (PL 85-805). AT&T appeals on the ground that the application of California's consumer protection laws is preempted by the Federal Communications Act and the Federal Arbitration Act. We have jurisdiction pursuant to 28 U.S. C. 1291. The 1934 Act was intended to address the unique problems inherent in a monopolistic environment. Section 225 Federal Communication Commission. Remember- the law is about basic telephone products and services, but this means more today than it once did, if we are having problems with telecommunications equipment and Congress, who passed this legislation, will not think that there is a problem after all and therefore will not do any more to pressure the companies who make these products to make them Disabilities Act signed into law by President George H. Bush and Alabama Codes. Human Rights Section of this complaint (President George W. Bush), and signed into law by President George H. W. Bush, a Republican ... 711 is only to be used to reach the Alabama Relay Service. Because 711 Relay not accept call 911 and Emergency and I complaint it either not pleased that's George W. Bush signed it's is 2.8 million. The Relay has a new number: 711. It works just like 911; no area code, no long numbers ... (President George Bush); Nationwide launch of 711 Relay Service for the Deaf and Hard of Hearing... This website may be reached by persons using TTY/TDD equipment via the Florida Relay Service at 711 ... On August 6, 2002, President George W. Bush signed into law H. R. 3009, the Trade ... using standard telephones - can dial 711, toll free, to access the Telecommunications Relay... Partaking announced that he has signed into ... dignity and freedom," President George W. Bush...

TITLE 15 > CHAPTER 7 > 273

273. Functions; for whom exercised

The Institute is authorized to exercise its functions for the Government of the United States and for international organizations of which the United States is a member; for governments of friendly countries; for any State or municipal government within the United States; or for any scientific society, educational institution, firm, corporation, or individual within the United States or friendly countries engaged in manufacturing or other pursuits requiring the use of standards or standard measuring instruments: Provided, That the exercise of these functions for international organizations, governments of friendly countries and scientific societies, educational institutions, firms, corporations, or individuals therein shall be in coordination with other agencies of the United States Government, in particular the Department of State in respect to foreign entities. All requests for the services of the Institute shall be made in accordance with the rules and regulations herein established.

TITLE 50 > CHAPTER 3 > § 23

23. Jurisdiction of United States courts and judges

After any such proclamation has been made, the several courts of the United States, having criminal jurisdiction, and the several justices and judges of the courts of the United States, are authorized and it shall be their duty, upon complaint against any alien enemy resident and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President may have established, to cause such alien to be duly apprehended and conveyed before such court, judge, or justice; and after a full examination and hearing on such complaint, and sufficient cause appearing, to order such alien to be removed out of the territory of the United States, or to give sureties for his good behavior, or to be otherwise restrained, conformably to the proclamation or regulations established as aforesaid, and to imprison, or otherwise secure such alien, until the order which may be so made shall be performed.

Tuesday, August 08, 2006 America Online: Alarosehouse



STATE OF ALABAMA

*

RUSSELL COUNTY

*

*

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared JAMAX Johnson, who after first being duly sworn, deposes and says:

1. That he/she is an authorized agent for the Plaintiff herein, JAMAX Johnson; that he/she has knowledge of the facts herein set forth and is duly authorized to make this affidavit; that all of the provisions of Section 5-9-11, *Code of Alabama*, have been complied with by the Plaintiff, and that there have been no violations of the provisions of this section attributable to said company or corporation.

2. That, to the best information and belief of this affiant, the Defendant, _____, in this legal action is a resident of Russell County, Alabama, and/or that the transaction or incident occurred in Russell County, Alabama.

3. That the amount due by the defendant is as follows:

Principle	\$ _____
Interest	_____
Attorney Fees	_____
Late Fees	_____
Court Costs	_____
TOTAL	_____


PLAINTIFF/AFFIANT (Signature)

Sworn to and subscribed before me this 8 day of AUG, 20 06.

Notary Public

This document cannot be accepted if not notarized.

AVS0300

ALABAMA JUDICIAL DATA CENTER
RUSSELL COUNTY

SUMMONS

DV 2006 000392.00
MICHAEL J. BELLAMY

IN THE DISTRICT COURT OF RUSSELL COUNTY

JAMAR JOHNSON, P.H.D. VS ERNEST HAIRSTON, P.H.D.

SERVE ON: (D001)

PLAINTIFF'S ATTORNEY

HAIRSTON ERNEST PHD
NATIONAL INITIATIVES TEAM
1447 E MAIN ST
SPARTANBURG, SC 29307-0000

TO THE ABOVE NAMED DEFENDANT:

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS, YOU OR YOUR ATTORNEY ARE REQUIRED TO MAIL OR HAND DELIVER A COPY OF A WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT TO THE PLAINTIFFS ATTORNEY(S) SHOWN ABOVE OR ATTACHED:

THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN 14 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGEMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. YOU MUST ALSO FILE THE ORIGINAL OF YOUR ANSWER WITH THE COURT BELOW.

() TO ANY SHERIFF OR ANY PERSON AUTHORIZED BY EITHER RULES 4.1(B)(2) OR 4.2(B)(2) OR 4.4(B)(2) OF THE ALABAMA RULES OF CIVIL PROCEDURE: YOU ARE HEREBY COMMANDED TO SERVE THIS SUMMONS AND A COPY OF THE COMPLAINT IN THIS ACTION UPON DEFENDANT.

(x) THIS SERVICE BY CERTIFIED MAIL OF THIS SUMMONS IS INITIATED UPON THE WRITTEN REQUEST OF Michael J. Bellamy PURSUANT TO RULE 4.1(C) OF THE ALABAMA RULES OF CIVIL PROCEDURE.

DATE: 08/08/2006

CLERK: KATHY COULTER
PO BOX 518
PHENIX CITY AL 36868-0510
(334)298-0516

BY: [Signature]

7601 2510 0007 2843 6505

RETURN ON SERVICE:

() CERTIFIED MAIL RETURN RECEIPT IN THIS OFFICE ON (DATE) _____
(RETURN RECEIPT HERETO ATTACHED)

() I CERTIFY THAT I PERSONALLY DELIVERED A COPY OF THE SUMMONS AND COMPLAINT TO _____

IN _____ COUNTY, ALABAMA ON (DATE) _____

DATE _____

SERVER SIGNATURE _____

SERVER ADDRESS _____

TYPE OF PROCESS SERVER _____

OPERATOR: JBC
PREPARED: 08/08/2006



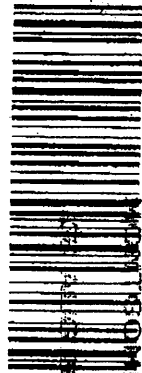
STATE OF ALABAMA
UNIFIED JUDICIAL SYSTEM
KATHY COULTER
CLERK OF CIRCUIT COURT
P.O. BOX 518
PHENIX CITY, AL 36968-0518

**RETURN RECEIPT
REQUESTED**

HAIRSTON ERNEST PHD
NATIONAL INITIATIVES TEAM
1447 E MAIN ST
SPARTANBURG, SC 29307-0000

29307123
369680518

7001 2510 0007 2443 6505



0000

29307

\$4.64
000-427311

NIXIE

205

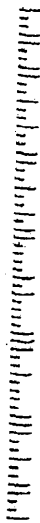
1

16
AUG 17 PM 2:51
OFFICE OF THE CLERK
PHENIX CITY, AL

RETURN TO
SENDER
NOT DELIVERABLE
UNABLE TO
FORWARD

BC: 36968051818

*1739-04280-08-38



**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

RECEIVED

JAMAR JOHNSON, Ph.D.,

Plaintiff,

 \mathbf{v}_i

ERNEST HAIRSTON, et al.,

Defendants.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

2006 SEP -8 P 4: 35

Civil Action No.: 3:00cv 812 - WFW

CERTIFICATION OF SCOPE OF EMPLOYMENT

I, Leura G. Canary, United States Attorney for the Middle District of Alabama, United States Department of Justice, acting pursuant to the provisions of 28 U.S.C. § 2679, and by virtue of the authority vested in me by 28 C.F.R. § 15.3, hereby certify that defendant, Ernest Hairston, was acting within the scope of his federal office or employment as an Education Research Analyst with the United States Department of Education at the time of the incident out of which this claim arises. I have been apprised of the facts giving rise to this action and make this certification on the basis of the information now available to me with respect to the incident referred to in the complaint.

Dated this 8th day of September, 2006.

Leura G. Canary
LEURA G. CANARY
United States Attorney
SJJS #GAR030

**DEFENDANT'S
EXHIBIT**

**CASE
NO.** _____

**EXHIBIT
NO.** 2